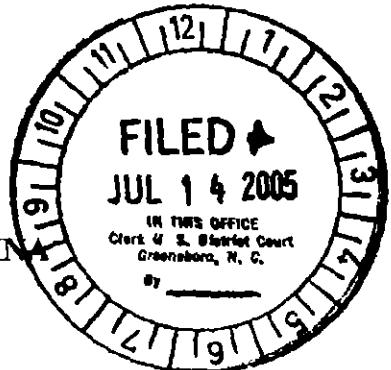


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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Jesus Nunez-Solorzano,)
Petitioner,)
v.)
United States of America,)
Respondent.)

1:05CV00623

1:05CR24-1

ORDER OF DISMISSAL WITHOUT PREJUDICE
TO PETITIONER FILING A NEW MOTION

Petitioner, a federal prisoner, has submitted a motion to vacate, set aside, or correct sentence pursuant to 28 U S C § 2255. This motion cannot be further processed for the following reasons

- 1 The motion is premature. Petitioner has not yet been sentenced in his criminal case. He may refile this section 2255 action after his judgment has been entered, and he has exhausted his appellate remedies.
- 2 Petitioner has also filed this as a petition under 28 U S C § 2241, however such a petition must be filed in the district in which petitioner is incarcerated, which is in the Eastern District of North Carolina 28 U S C § 113(a) (Butner FCI located in Eastern District)

Because of these pleading failures, this particular motion will be dismissed, but without prejudice to petitioner filing a new motion properly following the 28 U S C § 2255 forms, after his judgment of conviction has become final.

IT IS THEREFORE ORDERED that this action be filed and dismissed sua sponte without prejudice to petitioner filing a new motion after his judgment of conviction has become final



Wallace W. Dixon, U.S. Magistrate Judge

July 14, 2005